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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,113	08/28/2003	Ernest W. Moody	MOODY 41	1843
24258	7590	09/06/2005	EXAMINER	
JOHN EDWARD ROETHEL 2290 S. JONES BLVD. #100 LAS VEGAS, NV 89146			LAYNO, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 09/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/652,113	MOODY, ERNEST W.
	<b>Examiner</b>	<b>Art Unit</b>
	Benjamin H. Layno	3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 June 2005.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments in the Appeal Brief, filed 06/20/05, with respect to the rejection(s) of claim(s) 1-12 under 35 USC 103 as being unpatentable over Crawford in view of Awada 943' have been fully considered and are persuasive. Therefore, the final rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC 103, unpatentable over Awada 943' in view of Crawford, and 35 USC 102, unpatentable over Suttle et al.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Awada in view of Crawford.

The patent to Awada 943' discloses a method of playing a **stud** poker game. To play Awada 943' stud poker game a player places a wager 20-22, which is allocated among a seven-card stud poker hand, a five-card subset, and a three-card subset, col. 3, lines 23-33. A seven-card stud poker hand is displayed to a player. If the seven-card stud poker hand comprises a predetermined arrangement of cards, the player is provided an award according to a first payable 30. If the five-card subset of the seven-

card stud poker hand comprises a predetermined arrangement of cards, the player is provided an award according to a second payable 29. If the three-card subset of the seven-card stud poker hand comprises a predetermined arrangement of cards, the player is provided an award according to a third payable 28, col. 3, line 53 to col. 4, line 17. The only step recited in claim 1 that Awada 943' lacks is "a four card subset".

The patent to Crawford discloses a poker game having an initial five-card hand, a **four-card subset** of the initial five-card hand, and a three-card subset of the initial five-card hand. A player's wager is allocated among the initial five-card hand, four-card subset, and three-card subset. The player is provided an award based on paytables of initial five-card hand, four-card subset, and three-card subset.

In view of such teaching, it would have been obvious to modify Awada 943' by substituting for the seven-card stud poker hand thereof, a **four-card poker hand subset**. A four-card subset poker payable would have been also provided. This modification would have provided Awada 943' stud poker game with a five-card stud poker hand, a **four-card subset** and a three-card subset. This modification would have required less cards to be dealt, thereby expediting playing time for each round of Awada 943' stud poker game. Thus, increasing casino profits and revenue.

In regard to claims 7-12, Crawford also teaches different four-card subsets 14a-14b, Fig. 2. A first four-card subset 14a consists of card 1, card 2, card 3 and card 4. A second four-card subset 14b consists of card 2, card 3, card 4 and card 5. Crawford also teaches different three-card subsets 12a-12j, Fig. 1. A first three-card subset consists of card 1, card 2 and card 3. A second three-card subset consists of card 2,

card 3 and card 4. A third three-card subset consists of card 3, card 4 and card 5.

These subsets have corresponding paytables.

In view of such teaching, it would have been obvious to provide different four-card subsets, and different three-cards subsets to Awada 943' game. By providing more card hand subsets to Awada 943" game, this modification would have given the players, the perception of having more opportunities at winning.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Suttle et al.

The patent to Suttle et al. discloses a method of playing a stud poker game, col. 2, lines 13-14. To play Suttle's game, a five-card stud poker hand is displayed to a player, col. 3, lines 10-16. If a five-card stud poker hand comprises a predetermined arrangement of cards (e.g. Full House), the player is provided an award (e.g. 7-to-1), see pay table in col. 4, lines 15-24. If a four-card subset of the initial five-card stud poker hand comprises a predetermined arrangement of cards (e.g. Four-of-a-Kind), the player is provided an award (e.g. 20-to-1). If a three card subset of the initial five card

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comprises a predetermined arrangement of cards (e.g. Three-of-a-Kind), the player is provided with an award (e.g. 3-to-1).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

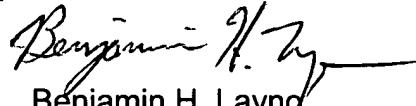
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl